

SECOND REGULAR SESSION

SENATE BILL NO. 1278

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR YECKEL.

Read 1st time February 19, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4387S.01I

AN ACT

To amend chapter 324, RSMo, by adding thereto five new sections relating to licensing of amusement machine operators.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 324, RSMo, is amended by adding thereto five new sections, to be known as sections 324.551, 324.553, 324.556, 324.559, and 324.562, to read as follows:

324.551. 1. As used in sections 324.551 to 324.562, the following terms mean:

(1) "Amusement machine", any machine, device, or apparatus which provides amusement, diversion, or entertainment, which is coin-operated and operational results of which depend in whole or in part upon the skill of the player, whether or not an award is afforded to a successful player. Such phrase includes any machine, device, or apparatus not otherwise excluded by this section and also includes, but is not limited to, such games as radio rifles, miniature football, golf, baseball, hockey, basketball, bumper pool, tennis, shooting galleries, pool tables, bowling, shuffleboard, pinball tables, cranes, video games, claw machines, bowling machines, countertop machines, novelty arcade machines, and other miniature games, whether or not a score shows;

(2) "Amusement machine operator", a person engaged in the business to own, buy, sell, rent, lease, trade, or furnish to another amusement machine; except that, the phrase shall exclude an individual who owns or operates an amusement machine for personal use and amusement in such individual's private residence and shall exclude a business or organization that owns three or fewer amusement machines;

(3) "Award", is a noncash prize, toy, merchandise, or novelty which shall be located and redeemed solely on the premise where an amusement machine is played. The term shall specifically exclude cash, gift certificates, intoxicating beer and liquor, nonintoxicating beer, and tobacco products. The value of an award for

a single play shall not exceed the greater of the value of a single play of the amusement machine or the wholesale value of five dollars. The value of an award from an accumulation of successful plays shall not exceed a wholesale value of more than twenty-five dollars. No redemption machine shall act as a lottery or gift enterprise, or simulate a slot machine or any gambling game of skill or video representatives which are specifically enumerated in subdivision (12) of subsection 1 of section 313.800, RSMo, as of August 28, 1999;

(4) "Coin-operated", any amusement machine which is operated by placing through a slot, or any kind of opening or container, any coin, slug, token, paper money, or other object or article necessary to be inserted before the machine operates or functions, but does not include any machine or device which is classified by the United States government as requiring a federal gaming stamp pursuant to applicable provisions of the Internal Revenue Code;

(5) "Director", the director of the division of professional registration of the department of economic development;

(6) "Person", any individual, firm, association, company, partnership, or corporation; and

(7) "Redemption machine", an amusement machine from which a successful player receives a redeemable award.

2. No person shall act as an amusement machine operator without first obtaining an amusement machine operator license from the director. Such license shall be renewed biennially on or before July first every two years. The biennial fee for a license to operate amusement machines shall be set by the director at an amount necessary to cover administration costs of the licensing program established in sections 324.551 to 324.562, but shall not exceed one thousand dollars. The biennial fee for a license to operate any number of amusement machines only at carnivals, local or county fairs, or the state fair shall be one hundred dollars for each month of such two-year period in which amusement machines are operated. Any person making an initial application for a license after January first of the year shall be charged a prorated amount of such license. A licensed amusement machine operator shall not transfer his or her license number or allow another person to use his or her license number.

3. A person may obtain an amusement machine operator license if such person has the following qualifications:

(1) Such person, if an individual, is at least twenty-one years of age, or such person, if a business, is in part owned by at least one individual who is at least twenty-one years of age;

(2) Such person, if an individual, is currently a resident of this state and has

been such continuously for at least one year before the date of such person's application, or, if such person is a business, is in part owned by at least one individual who is currently a resident of this state, has been such continuously for at least one year before the business's application and such individual shall be the party accountable for the collection and reporting of all of the business's state taxes, fees, and compliance. The residency requirement shall not apply to a person whose operation of amusement machines is limited exclusively to carnivals, local or county fairs, or the state fair and shall not apply to a person who was doing business in Missouri and paying Missouri sales tax on revenues from amusement machines on or before December 31, 1999; and

(3) Such person shall show a Missouri sales tax number and proof that Missouri sales tax has been paid on all business dealings previously undertaken in this state.

4. Any person who acts as an amusement machine operator without first obtaining a license from the director shall be assessed a penalty of up to one hundred dollars for each amusement machine in such person's possession, and the director may seize any amusement machines in such person's possession and initiate or authorize the attorney general to initiate legal proceedings.

324.553. The director shall require all licensed amusement machine operators to purchase an operator identification tag for each of the operator's amusement machines. Such tag shall meet all specifications set by the director and shall contain the operator's license number and any other information the director may require. Each amusement machine operator shall place such tags on each amusement machine owned or operated by him or her; except that, such tags shall not be placed in a location that would interfere with the playing of the machine.

324.556. 1. The director is authorized to:

(1) Promulgate any rule necessary to implement sections 324.551 to 324.562;

(2) Issue warnings, probations, assess monetary penalties of up to one hundred dollars per violation, and suspend or revoke the license of an amusement machine operator who violates sections 324.551 to 324.562;

(3) Prescribe all forms, applications, and licenses;

(4) Examine books and records of persons applying for an amusement machine operator license or persons licensed as amusement machine operators, including state sales tax records; and may only investigate an operator of amusement machines after receiving a written complaint or request to take action from a Missouri citizen or law enforcement agency.

2. Any party aggrieved by any action of the director shall have the right to

appeal to the administrative hearing commission from any finding, order, and decision of the director. Any person or entity who is a party to such a dispute shall be entitled to a hearing before the administrative hearing commission by the filing of a petition with the administrative hearing commission within thirty days after the decision of the director is placed in the United States mail or within thirty days after the decision is delivered, whichever is earlier. The decision of the director shall contain a notice of the right of appeal in substantially the following language:

"If you were adversely affected by this decision, you may appeal to the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it was mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission. The procedures applicable to the processing of such hearing and determinations shall be those established by chapter 536, RSMo. Decisions of the administrative hearing commission pursuant to this section shall be binding subject to appeal by either party."

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

324.559. All fees provided for in sections 324.551 to 324.556 shall be collected by the director who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Amusement Machine Operator License Fund" which is hereby created. The fund shall be administered by the director. Upon appropriation, money in the fund shall be used solely for the administration of sections 324.551 to 324.562. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, no portion of the fund shall be transferred to the general revenue fund, and no appropriation made to the fund shall lapse. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Interest and moneys earned on such investments shall

be credited to the fund.

324.562. Sections 324.551 to 324.562 shall not become effective until expenditures or personnel are specifically appropriated for the purpose of conducting the business as specified therein and the initial rules filed, if appropriate, have become effective. The director shall have the authority to borrow funds from any agency within the division to commence operations upon appropriation for such purpose. This authority shall cease at such time that a sufficient fund has been established by the agency to fund its operations and repay the amount borrowed.

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